

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LUCILLA LULA HARRIS,

Defendant-Appellant.

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UNPUBLISHED  
November 3, 2005

No. 256065  
Oakland Circuit Court  
LC No. 2003-192102-FC

Before: Talbot, P.J., and White and Wilder, JJ.

PER CURIAM.

Defendant was convicted of armed robbery, MCL 750.529, fleeing and eluding a police officer, MCL 750.479a(3), possession of less than 25 grams of cocaine, MCL 333.7403(2)(a)(v), driving with a suspended license, MCL 257.904, contributing to the delinquency of a minor, MCL 750.145, and possession of marijuana, MCL 333.7403(2)(d). Defendant appeals as of right, asserting that her *Miranda*<sup>1</sup> waiver was not voluntary, knowing and intelligent. Defendant also asserts that her conviction for possession of marijuana must be reversed because the trial court failed to instruct the jury regarding the elements of that offense. We affirm.

To be valid, a *Miranda* waiver must be voluntary, in the sense that it is free of intimidation or coercion, and it must have been knowingly and intelligently given. *Moran v Burbine*, 475 US 412, 421; 106 S Ct 1135 (1986). Questions regarding the voluntariness and knowingness of a waiver are two separate inquiries. *People v Howard*, 226 Mich App 528, 538; 575 NW2d 16 (1997). The prosecution must establish by a preponderance of the evidence that the defendant's waiver was valid. *People v Daoud*, 462 Mich 621, 634; 614 NW2d 152 (2000). This Court reviews factual findings at a suppression hearing for clear error, giving deference to the trial court. *Id.* at 629.

Defendant challenges the voluntariness of her *Miranda* waiver. An inquiry into voluntariness is resolved by examining police conduct. *Id.* at 635. On appeal, defendant suggests that she received offers of leniency in exchange for her cooperation. However, defendant's testimony at the suppression hearing does not support this suggestion. Defendant

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<sup>1</sup> *Miranda v Arizona*, 384 US 436; 86 S Ct 1602 (1966).

testified that no threats or promises were made during her interrogation, that she had been given the opportunity to sleep and eat breakfast, and that she had been treated well by the police. This Court is not left with the sense that the trial court clearly erred in finding defendant's waiver voluntary.

Defendant also contends that her *Miranda* waiver was not knowing and intelligent. She asserts that she did not know her statements could be used against her, and that her mental state had been weakened by drug use. Only a very basic level of comprehension is required to effect a valid waiver. *Id.* at 642. A knowing and intelligent waiver "does not require that a suspect understand the ramifications and consequences of choosing to waive or exercise the rights that the police have properly explained." *Id.*

Defendant's testimony at the suppression hearing indicates that she knew her statements could be used against her. Defendant testified that she read each portion of the printed *Miranda* warnings, and that they were fully explained to her before she initialed and signed the standard waiver form. Later, when asked at the suppression hearing whether she had "knowingly" waived her rights, defendant answered "yes." Defendant further claims that drug use had affected her ability to give an intelligent waiver. However, defendant testified that she was not under the influence of any drugs or alcohol at the time of her interrogation, and the officer who conducted the interrogation testified that defendant had been completely coherent and aware. The trial court did not clearly err in finding that defendant knowingly and intelligently waived her rights.

Defendant's next assertion is that her conviction for possession of marijuana must be reversed because the trial court improperly instructed the jury. We disagree. The corrected record establishes that the jury was correctly instructed on the elements of the crime charged in Count 5, knowingly or intentionally possessing a controlled substance, marijuana, and that defendant approved the instructions as given. There is no error requiring reversal.

Affirmed.

/s/ Michael J. Talbot  
/s/ Helene N. White  
/s/ Kurtis T. Wilder